

Resolution No.:	16-1517
Introduced:	October 12, 2010
Adopted:	October 12, 2010

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: Approval of Diagrammatic Plan Amendment (DPA) 10-3; an Amendment to the Diagrammatic Plan Approved for LMA G-718

BACKGROUND

1. The application for Diagrammatic Plan Amendment ("DPA") No. 10-3 was filed by the Shangri-La Limited Partnership on February 4, 2010. It seeks an amendment to the diagrammatic plan approved by the Council on July 2, 1996, in LMA G-718, which had reclassified 198 acres of the Traville tract in Shady Grove from the R-200 and R-200/TDR Zones to the MXN Zone. The 1996 diagrammatic plan (Exhibit 4) contains the following restriction: "R&D Non-Residential uses (limited to those allowed in the R & D Zone)." The only proposed change to the diagrammatic plan would be to add the following words below that restriction: "— with the exception that Private Educational Institute Is permitted in parcel L and O, Block A, Map – FR 43." See Exhibit 5.
2. Technical Staff of the Maryland-National Capital Park and Planning Commission reviewed this application and recommended, on May 10, 2010, that the Planning Board approve it without a public hearing before the Hearing Examiner, unless there is public opposition (which there has not been). According to the Technical Staff report, the effect of the proposed amendment would be to allow the applicant's existing child daycare center to also operate as a private educational institution (a Montessori school, in this case) on the site.
3. The subject property is part of an area identified on the 1996 diagrammatic plan as the R&D-1 land bay. Technical Staff reports that the applicant's child daycare center is identified on the diagrammatic plan as an approved use in the land bay, but a private educational institution is not, although it is an allowed use under MXN zoning.
4. On October 8, 2009, the applicant brought a site plan amendment before the Planning Board to change its approved child daycare site plan to include both a child daycare facility and a private educational institution. Site plan staff determined at the time that the only recourse for obtaining a site plan amendment and a use and occupancy permit for the private educational institution was for the diagrammatic plan to be amended through the diagrammatic plan amendment process. That is the purpose of the current application.

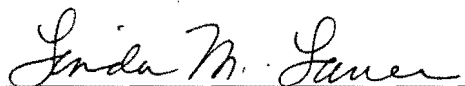
5. No construction or exterior modifications are proposed to the existing 12,000 square foot daycare facility as part of this application. Staff does not anticipate that allowing a private educational institution in the R&D-1 land bay area of the plan will have any substantive impact on the non-residential development objectives for the area. According to the applicant, the scope of the building's current operations will remain the same, other than the inclusion of the Montessori curriculum. Staff found that the amendment would not result in changes to the approved and developed building square footage of the project, nor alter the compatibility of the project with surrounding development or compliance with the purposes of the MXN Zone. Staff also found that the DPA is consistent with the 1990 Shady Grove Study Area Master Plan and with the findings made by the District Council at the time of the original diagrammatic plan approval.
6. At its regular meeting on May 20, 2010, the Planning Board unanimously recommended approval of the DPA without a public hearing before the Hearing Examiner, absent public opposition.
7. There is no opposition to DPA 10-3, and no request has been made for a hearing. The Planning Board also does not recommend a public hearing in this case. Therefore, under the provisions of Zoning Ordinance §59-D-1.74(c)(3), "the office of zoning and administrative hearings [OZAH] must forward the planning board's report and recommendation directly to the council," without a hearing by OZAH.
8. The record is now complete, and the matter can be considered directly by the District Council without the need for a hearing conducted by the Office of Zoning and Administrative Hearings.
9. The District Council has reviewed DPA 10-3 and concluded that the DPA meets the requirements of the Zoning Ordinance, and its approval would be in the public interest. Based on this record, the District Council takes the following action.

ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, approves the following resolution.

DPA 10-3, which requests an amendment to the Diagrammatic Plan approved on July 2, 1996, in LMA G-718, by adding the following words below the restriction in the Diagrammatic Plan, "— with the exception that Private Educational Institute Is permitted in parcel L and O, Block A, Map – FR 43," as set forth in paragraph numbered 1, above, is hereby approved, subject to the specifications and requirements of the Diagrammatic Plan Amendment, Exhibit 5, provided that the DPA is submitted to the Hearing Examiner for certification within 10 days of the District Council's action, pursuant to the provisions of Zoning Ordinance §59-D-1.64.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council